

# HEALTH SERVICES AND DEVELOPMENT AGENCY

## MINUTES

APRIL 26, 2006

### **AGENCY MEMBERS PRESENT**

Caldwell, Gene, M.D., Chair  
Atchley, Bryan, Vice Chair  
Coile, Kristin, designee for the Commissioner of Commerce and Insurance  
Collier, David, M.D., designee for the TennCare Director  
Handorf, Charles, M.D.  
Jones, Clark  
Koella, Carl, III  
Lammert, Gregory  
Weaver, Faye, designee for the Comptroller of the Treasury

### **AGENCY MEMBERS ABSENT**

Troy, Peggy

### **COURT REPORTER**

Wilson, Kathy

### **AGENCY STAFF PRESENT**

Hill, Melanie, Executive Director  
Bobbitt, Melissa, Administrative Services Assistant II  
Brogden, Reid, General Counsel  
Craighead, Alecia, Statistical Analyst III  
Farber, Mark, Assistant Executive Director  
Finchum, Rhonda, Office Manager  
Wells, Phil, Health Planner III

### **GUESTS PRESENT**

Arancibia, Tara, Morningside of Belmont  
Barnes, Jonathan, Maxim HealthCare  
Bell, Karen, Director, Elk Valley Health Services  
Brent, Michael D., Esq., Boulton, Cummings, Connors & Berry  
Brown, Dere, NHC  
Burns, Michael, HHC of West Tennessee  
Chadwell, Liz, RN, Home Health Care of Middle Tennessee  
Clapp, Steve, Senior VP, Baptist Health Systems  
Corritore, Danell, Department of Health  
Cravens, Tom, Esq., Kramer, Rayson, Leake, Rodgers & Morgan  
Crowe, Sherry, Manager, Hamilton Eye Institute  
Culp, Joe, Department of Health  
Delph, Benjamin, Bass, Berry & Sims  
DeVore, Russell, M.D., Baptist Health Systems  
Douglass, Terry D., Chairman, ProVision Healthcare  
DuBois, Mary Lou, Chief Manager, LifeCare Partners  
Duncan, Bruce, NHC  
Elrod, Dan H., Esq., Miller & Martin  
Fisher, Don, VP, Business Development, AmeriCare Home Health Agency

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Fleming, James "Chris", M.D., UT Vice Chairman and Hamilton Medical Director  
Fyke, Melodie, Executive Director, Mary, Queen of Angels  
Gooch, Warren, Esq., Kramer, Rayson, Leake, Rodgers & Morgan  
Guyton, Nancy, Administrator, Medical Center Home Health  
Halsey, Laurie, Covenant Health Systems  
Hargrove, R. Ryan, Administrator, The Village at Germantown  
Harris, Heather, Alliance Home Care of Tennessee  
Hunter, Randy, Respiratory Therapist, AmeriCare Home Health Agency  
Hurst, Fred, Alliance Home Care of Tennessee  
Johnson, Phil, Covenant Health Systems  
Thompson, Ann, Department of Health, Health Care Facilities  
Kilburn, Jacob, VP, Legal Affairs, AmeriCare Home Health Agency  
Kioschos, J. Michael, President  
Kisner, Tanya, Dietitian, AmeriCare Home Health Agency  
Lake, Victoria, Medical Center Home Health  
Lucchesi, Jane, Memorial Hospital  
Ockerman, Jefferson H., Esq., Stites & Harbison, PLLC  
Owens, Pamela Rudd, RN, NHC Home Care  
Pentland, Ellen, Sr. VP, Alliance Home Care of Tennessee  
Phillips, Brant, Esq., Bass, Berry & Sims, PLC  
Potter, Jeffrey D., Partner, LBMC Healthcare, LLC  
Reed, Clara T., CEO, AmeriCare Home Health Agency  
Richardson, Mike, Covenant Health Systems  
Scott McDearman, Esq., Grant, Konvalinka & Harrison, P.C.  
Sells, John, CEO, Arbor Place of Puryear, Inc.  
Shepherd, Dave, Siemens  
Smith, Janet, Alliance Home Care of Tennessee, Inc.  
Sylvia, John B., Director of Planning, Baptist Health Systems of East Tennessee  
Taylor, Jerry W., Esq., Farris, Mathews, Branan, Bobango, Hellen & Dunlap, PLC  
Tiedjens, Sharron, Nashville Orthopedic Specialists, PC  
Trauger, Byron, Esq., Trauger & Tuke  
Treece, Susan, Anesis  
Veal, Chad, Regional Director Operations, AmSurg Corporation  
Vissers, Christian F., MD, Nashville Orthopedic Specialists, PC  
Wellborn, John, Development Support Group  
West, W. Steven, Senior Vice President & General Counsel, Methodist Healthcare  
West, William H., Esq., Baker, Donelson  
Wright, Will, Esq., Stites & Harbison, PLLC

**Chairman Caldwell called the meeting to order at 8:30 a.m. in Room 160 - 1<sup>st</sup> Floor Conference Room of the Davy Crockett Tower, Nashville, Tennessee.**

### **DIRECTOR'S ANNOUNCEMENTS**

Melanie Hill, Executive Director, announced that the White County Community Hospital application CN0601-004 has been withdrawn.

### **CONSENT CALENDAR**

*Ms. Hill summarized the following Consent calendar application.*

### **Tennessee Endoscopy Center - (Maryville, Blount County) - Project No. CN0602-009**

The relocation of the approved but unimplemented Certificate of Need (CN0507-056A) from 602 Smithview Drive, Maryville (Blount County), TN 37803 to 1710 East Lamar Alexander Parkway, Maryville (Blount County), TN 37804. The project also includes the expansion from three (3) to five (5) operating/procedure rooms and a project cost increase. Project Cost \$4,520,293.00.

John L. Wellborn, Consultant, and Chad Veal, Regional Director Operations, AmSurg Corporation were present on behalf of the project.

Mr. Koella moved for approval of the project as presented on the Consent Calendar by Ms. Hill based on: 1) Need – The need is there as their capacity grows; 2) Economic Feasibility – The project is economically feasible with loans; and 3) The project does contribute to the orderly development of adequate and effective health care with the licensing and the TennCare participation. Dr. Handorf seconded the motion. The motion CARRIED [9-0-0]. **APPROVED**

AYE: Coile, Lammert, Koella, Atchley, Handorf, Weaver, Collier, Jones, Caldwell  
NAY: None

### **CERTIFICATE OF NEED APPLICATIONS**

*Mark Farber summarized the following CON applications:*

#### **Americare Home Health Agency, Inc. - (Memphis, Shelby County) - Project No. CN0511-096**

The addition of Crockett, Dyer, Fayette, Gibson, Hardeman, Haywood, Lauderdale and Madison counties to the existing home health agency's service area of Tipton and Shelby counties. The parent agency is located at 1444 East Shelby Drive, Memphis (Shelby County), TN 38116. Project Cost \$3,000.00.

Clara T. Reed, CEO, addressed the Agency, and Don Fisher, Vice President, Business Development spoke on behalf of the project. Present in support of the project were: Randy Hunter, Respiratory Therapist and Tanya Kisner, Dietitian.

Speaking in opposition of the project were: Dan H. Elrod, Esq., representing Medical Center Home Health; Pamela Rudd Owens, RN, NHC Home Care; Scott McDearman, Esq., representing CareAll Home Care; Michael Burns, HHC of West Tennessee; and Nancy Guyton of Medical Center Home Health.

Jacob Kilburn, VP, Legal Affairs, Ms. Reed and Mr. Fisher rebutted.

Mr. Elrod provided summation for opposition.

Ms. Reed and Mr. Fisher provided summation for the applicant.

Mr. Atchley moved for denial of the project based on: 1) Need – The need has not been shown. Certificates of Need that were approved in the area were to serve specific patient groups with specific service needs; and 2) The project does not contribute to the orderly development of adequate and effective health care with the existing number of health care agencies serving the requested counties. Ms. Coile seconded the motion. The motion CARRIED [6-3-0]. **DENIED**

AYE: Coile, Lammert, Koella, Atchley, Collier, Caldwell  
NAY: Handorf, Weaver, Jones

#### **Nashville Orthopaedic Specialists, PC - (Nashville, Davidson County) - Project No. CN0512-110**

The acquisition of an extremities magnetic resonance imaging (MRI) unit and initiation of MRI services for patients of the practice. Project Cost \$863,524.00.

Brant Phillips, Esq., representing the applicant, addressed the Agency. J. Michael Kioschos, President and Dr. Christian Vissers spoke on behalf of the project. John L. Wellborn, Consultant was present.

Dr. Handorf moved for approval of the project based on: 1) Need – This is a specialist's practice that requires an enhanced degree of standing capability; 2) Economic Feasibility – The project is economically feasible and financing is available; and 3) The project does contribute to the orderly development of adequate and effective health care as the physicians in the practice are TennCare providers and their licenses are in place. **CONDITION: Limited to the patients of the practice.** Ms. Weaver seconded the motion. The motion CARRIED [9-0-0]. **APPROVED**

AYE: Coile, Lammert, Koella, Atchley, Handorf, Weaver, Collier, Jones, Caldwell  
NAY: None

*Mr. Lammert recused*

**Alliance Home Care of Tennessee, Inc. - (Nashville, Davidson County) - Project No. CN0601-001**

The establishment of a home care organization to provide a full range of home health services including, but not limited to, private duty nursing. The service area includes the following counties: Davidson, Montgomery, Robertson, Rutherford, Sumner, Wilson and Williamson. The parent agency will be located at 209 10th Avenue South, Nashville (Davidson County), TN 37203. Project Cost \$75,500.00.

Jefferson H. Ockerman, Esq., representing the applicant, addressed the Agency. Speaking on behalf of the project were: Ellen Pentland, Sr. VP and Melodie Fyke, Executive Director, Mary, Queen of Angels.

Speaking in opposition were: Karen Bell, Director, Elk Valley Health Services; Dena Murphy, Gentiva Home Health Services and The Healthfield Group; Pamela Rudd Owens, RN, NHC Home Care; Scott McDearman, Esq., representing CareAll Home Health Care; and Liz Chadwell, RN, Home Health Care of Middle Tennessee.

Mr. Ockerman and Ms. Pentland rebutted.

Ms. Owens provided summation for opposition.

Mr. Ockerman provided summation for the applicant.

Dr. Handorf moved for denial of the project based on: 1) Need – The need has not been clearly demonstrated as there are a number of home care providers in the community; and 2) The project does not contribute to the orderly development of adequate and effective health care as existing providers will be negatively impacted should a new home care provider be introduced. Ms. Weaver seconded the motion. The motion CARRIED [6-2-0]. **DENIED**

AYE: Koella, Atchley, Handorf, Weaver, Collier, Jones

NAY: Coile, Caldwell

**East Tennessee Diagnostic Center, LLC - (Knoxville, Knox County) - Project No. CN0601-003**

The establishment of an outpatient diagnostic center (ODC), acquisition of a positron emission tomography (PET)/a computerized tomography (CT) scanner and the initiation of PET services. Existing PET services at Baptist Hospital of East Tennessee (BHET) will be discontinued. Project Cost \$3,710,936.00.

Warren L. Gooch, Esq., representing the applicant, addressed the Agency. Russell DeVore, M.D., Baptist Health Systems and Terry D. Douglass, Chairman, ProVision Healthcare, spoke on behalf of the project. Present were: Steve Clapp, Senior VP, Baptist Health Systems; Mary Lou DuBois, Chief Manager, LifeCare Partners; Jeffrey D. Potter, Partner, LBMC Healthcare, LLC; and John B. Sylvia, Director of Planning, Baptist Health Systems of East Tennessee.

Mr. Koella moved for approval of the project for the establishment of an outpatient diagnostic center with the acquisition of a combination PET/CT scanner and the initiation of PET services. Upon implementation of the project the other PET will be discontinued at the BHET's main campus. This is based on: 1) Need – The need is certainly there as BHET is the only tertiary hospital in Knoxville without a PET. They have a huge cancer program and PET/CT is becoming the standard of care for staging, diagnosing and treating all types of cancers; 2) Economic Feasibility – The project is economically feasible through a combination of cash reserves and operating leases; and 3) The project does contribute to the orderly development of adequate and effective health care as they are licensed and a large TennCare provider through BHET. Mr. Jones seconded the motion. The motion CARRIED [9-0-0]. **APPROVED**

AYE: Coile, Lammert, Koella, Atchley, Handorf, Weaver, Collier, Jones, Caldwell

NAY: None

**White County Community Hospital - (Sparta, White County) - Project No. CN0601-004**

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The discontinuance of obstetrical and maternity services. No inpatient beds or major medical equipment are affected by this project. Project Cost \$25,000.00.

**WITHDRAWN**

**GENERAL COUNSEL'S REPORT**

**Arbor Place of Puryear, Inc., - (Puryear, Henry County) - Project No. CN0311-098A**

Request for extension of the expiration date from August 1, 2006 to May 1, 2007. This project was approved for the relocation and replacement of an existing twenty-five (25) bed dually certified skilled nursing facility from 223 Chestnut Avenue to a newly constructed facility at 215 College Street, Puryear (Henry County). An additional eleven (11) dually certified SNF beds were requested but due to the 125 Bed Pool only seven (7) beds were granted.

Michael D. Brent, Esq., representing the applicant, addressed the Agency. John Sells, CEO, was present on behalf of the project.

Dr. Handorf moved for approval of the request as presented. Mr. Jones seconded the motion. The motion CARRIED [9-0-0]. **APPROVED**

AYE: Coile, Lammert, Koella, Atchley, Handorf, Weaver, Collier, Jones, Caldwell  
NAY: None

*Dr. Handorf recused.*

**The Village at Germantown - (Germantown, Shelby County) - Project No. CN0011-114A**

Request for a three (3) month extension of the expiration date from July 1, 2006 to October 1, 2006.

This project was approved on February 28, 2001, for the establishment of a skilled nursing home facility for thirty (30) skilled nursing home beds Medicare certified as part of a continuing care community. On August 28, 2003 an extension of expiration date to July 1, 2006 was approved.

Presently, the independent living units are complete and occupied. The skilled nursing beds are substantially complete, however, it is uncertain that these beds can be both completed and licensed by July 1, 2006.

Kim H. Looney, Esq., representing the applicant, addressed the Agency. R. Ryan Hargrove, Administrator, was present on behalf of the request.

Mr. Koella moved for approval of the request as presented. Mr. Atchley seconded the motion. The motion CARRIED [8-0-0]. **APPROVED**

AYE: Coile, Lammert, Koella, Atchley, Weaver, Collier, Jones, Caldwell  
NAY: None

**Tennessee Sports Medicine - (Mt. Juliet, Wilson County) - Project No. CN0402-009A**

Request for modification of the Certificate of Need. This project was approved for the initiation of magnetic resonance imaging (MRI) services limited to the orthopedic patients of the center. The expiration date is July 1, 2006.

This request is to permit the CON holder, to be able to provide MRI services to any patients of physicians who are employed by Tennessee Sports Medicine & Orthopedics, PC, whether or not they are orthopedic patients.

**Deferred to the May Meeting.**

*Dr. Handorf recused.*

**Hamilton Eye Institute Surgery Center, LP, - (Memphis, Shelby County) - Project No. CN0312-111A**

Request for a sixteen (16) month extension of the expiration date from May 1, 2006 to November 1, 2007. This project was approved on March 24, 2004 for the establishment of an ambulatory surgical treatment center (ASTC) and the initiation of outpatient surgery services limited to specialized outpatient eye surgery procedures. The surgery center is located in leased space from the University of Tennessee that was donated by Baptist Memorial Health Care Corporation, who is a partner of the surgery center.

Demolition of the space has been completed and is ready for build out, but certain revised provisions of the investment documents have caused the delay for completion of the project.

W. Steven West, Senior Vice President & General Counsel+ of Methodist Healthcare, addressed the Agency. James "Chris" Fleming, M.D., UT Vice Chairman and Hamilton Medical Director, spoke on behalf of the project. Sherry Crowe, Manager, Hamilton Eye Institute was present.

Mr. Koella moved for approval of the request as presented. Ms. Coile seconded the motion. The motion CARRIED [8-0-0]. **APPROVED**

AYE: Coile, Lammert, Koella, Atchley, Weaver, Collier, Jones, Caldwell

NAY: None

### **McNairy Regional Hospital - (Selmer, McNairy County) - Project No. CN0307-048A**

Request for expansion of mobile magnetic resonance imaging (MRI) services from two (2) days per week to three (3) days per week. This project was approved October 22, 2003 for the initiation of mobile MRI service for two (2) days per week, the conversion of ten (10) general hospital beds to swing beds and the initiation of swing bed services an expiration date of December 1, 2006. The project was complete on April 1, 2004.

William H. West, Esq., representing the applicant, addressed the Agency.

Mr. Jones moved for approval of the request as presented. Mr. Lammert seconded the motion. The motion CARRIED [9-0-0]. **APPROVED**

AYE: Coile, Lammert, Koella, Atchley, Handorf, Weaver, Collier, Jones, Caldwell

NAY: None

### **OTHER BUSINESS**

#### **Audit Charges**

Ms. Hill reported that the Department of Finance and Administration will pay the Health Planning and Advisory Board's (HPAB) share of the audit Charges. The Comptroller's Office estimated that sixty (60%) percent of the audit was devoted to HSDA and forty (40%) percent to HPAB.

### **CURRENT REPORTS**

#### **Statistical Reports**

The reports were accepted into the record.

#### **Finance, Ways and Means Committee Reports**

The reports were accepted into the record.

#### **Minutes**

The minutes of the March 22, 2006, meeting were accepted by unanimous voice vote.

### **ADJOURNMENT**

There being no further business, the meeting adjourned.

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Melanie M. Hill, Executive Director

MMH/mab